

FILED

SEP 04 2001

U.S. BANKRUPTCY COURT
BY NMK DEPUTY

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE: § **CASE NO. 01-52048 C**
§
MARY E. GEIST §
§
DEBTOR §

**PARADIGM MANUFACTURING, INC. §
AND IMMOBILISER, INC., §
Plaintiffs, §**

vs. §

Adversary No. 01-5135C

**MARY E. GEIST §
§
Defendant. §**

FIRST AMENDED NOTICE OF REMOVAL TO BANKRUPTCY COURT

TO THE HONORABLE LIEF M. CLARK, U.S. BANKRUPTCY JUDGE:

MARY E. GEIST, files her Notice of Removal to Bankruptcy Court, and states as follows:

BACKGROUND

1. The Debtor is a Defendant and Counterclaimant in a civil action pending in the 38th Judicial District of Medina County, Texas, entitled *Paradigm Manufacturing, Inc. and Immobiliser, Inc. v. Mary E. Geist*, Cause No. 00-09-15259-CV, (the "state court action"), in which Plaintiffs have alleged that the Debtor has made defamatory statements and engaged in fraudulent conduct, and in which the Defendant/Debtor has alleged in her Counterclaim that the conduct of Paradigm Manufacturing, Inc. and Immobiliser, Inc. constitute an actual and an anticipatory breach of employment agreement with her. The original action and counter-

action arise from an Asset Purchase Agreement concerning Paradigm Manufacturing, located in Devine, Texas.

2. The state court action was commenced on September 12, 2000, and the Counterclaim was filed on October 12, 2000. The Debtor's Original Petition was filed under Chapter 13 of the Bankruptcy Code on April 30, 2001. The employment of the undersigned counsel of record, Mary E. Geist, Debtor, was authorized by the Court pursuant to an Order entered on August 1, 2001.

3. Removal to the Bankruptcy Court for the San Antonio Division of the Western District of Texas, is proper because this is a "core proceeding," under 28 U.S.C. § 157, or a "related proceeding," as it constitutes a matter which (i) concerns the allowance or disallowance of claims against the Debtor; (ii) concerns a counterclaim by the Estate against a person who has filed an action against the Debtor; (iii) is a matter which affects the adjustment of the Debtor-Creditor relationship; and/or (iv) concerns a matter which impacts the efficacy of the Chapter 13 Plan proposed by the Debtor, in these proceedings.

4. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders known by the Debtor to be filed in the underlying state court action, are attached hereto as Exhibit "A."

5. Furthermore, a copy of this Notice is being filed with the Clerk of the 38th Judicial District Court of Medina County, Texas.

WHEREFORE, PREMISES CONSIDERED, Defendant, Counterclaimant and Debtor, Mary E. Geist, respectfully requests that this action be removed from the 38th Judicial District Court of Medina County, Texas, to the Bankruptcy Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

ELMS ♦ HARMON, LLC
7800 I.H. 10 West, Suite 600
San Antonio, Texas 78230
(210) 349-8888
(210) 349-8805 (fax)

By: 
Thomas S. Harmon
State Bar No. 08990700

ATTORNEYS FOR MARY E. GEIST

CERTIFICATE OF SERVICE

This is to certify that the above and foregoing First Amended Notice of Removal to Bankruptcy Court was served on Plaintiffs through their counsel of record, via First-class U.S.

Mail, to:

J. Ken Nunley
NUNLEY, DAVIS, JOLLEY & HILL, LLP
1580 South Main Street, Suite 200
Boerne, Texas 78006

CM/RRR #7000 1670 0010 4765 0899

on this 4th day of September 2001.

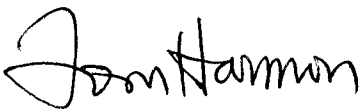

Thomas S. Harmon

EXHIBIT A